

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

GARY BRYAN BRACKIN,
individually and in his capacity as Surviving
Spouse of PAMELA W. BRACKIN,
Deceased,

Plaintiff,

v.

MEDTRONIC, INC., et. al,

Defendants.

Case No. 2:17-cv-2101

**UNOPPOSED MOTION FOR LEAVE TO FILE REPLY BRIEF IN SUPPORT OF
DEFENDANTS MEDTRONIC, INC.'S AND MEDTRONIC MINIMED, INC.'S
MOTION TO EXCLUDE OPINIONS AND TESTIMONY OF
WILLIAM J. VIGILANTE, JR., PH.D, CPE**

Defendants Medtronic, Inc. and Medtronic MiniMed, Inc. (collectively, “Medtronic Defendants”), by and through their attorneys and pursuant to Local Rule 7.2 (c) file this motion for leave to file a reply brief addressing Plaintiff’s Response to Medtronic Defendants’ Motion and Memorandum of Law in support of the Motion to Exclude Opinions and Testimony of William Vigilante, Jr., Ph.D., CPE, (Response at Doc. 134, Motion at Doc. 124). Plaintiff takes no position on this Motion.

Under Local Rule 7.2 (c), a party may file a reply brief “upon court order granting a motion for leave to reply.” Medtronic Defendants respectfully request permission to file a short reply brief to clarify and respond to Plaintiff’s lengthy memoranda.

Medtronic Defendants request an opportunity to reply to Plaintiff's Response on the basis that further briefing is necessary to aid the Court in evaluating the parties' respective legal positions as it pertains to the admissibility of William Vigilante's expert testimony, clarifying the

record, and expediting the disposition of this issue in anticipation of trial. Furthermore, due to Dr. Vigilante's unavailability, the Medtronic Defendants were unable to take his deposition until September 14, 2018 – the day the *Daubert* motions were due under the Court's Scheduling Order. Thus, the Medtronic Defendants were unable to cite his testimony in this case in support of their Motion, due to the lack of an available deposition transcript. Although the Medtronic Defendants cited testimony from his prior depositions, they need the opportunity to include additional deposition testimony from this case to supplement the record supporting the exclusion of his testimony. Plaintiff has cited testimony from this transcript in support of his Response and the Medtronic Defendants must address these additional citations of testimony in support of their Motion. Finally, Plaintiff cites additional case law purporting to support his Response that the Medtronic Defendants must also address. For these reasons, the Medtronic Defendants respectfully request leave to reply.

Dated: October 5, 2018

GREENBERG TRAURIG, LLP

/s/ Lori G. Cohen

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing
**UNOPPOSED MOTION FOR LEAVE TO FILE REPLY BRIEF IN SUPPORT OF
DEFENDANTS MEDTRONIC, INC.'S AND MEDTRONIC MINIMED, INC.'S MOTION
TO EXCLUDE OPINIONS AND TESTIMONY OF WILLIAM J. VIGILANTE, JR., PH.D,**
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This 5th day of October, 2018.

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